



The Advocate for Residents

A Newsletter From Your Regional Ombudsman Program

May 2009

Serving
Alexander,
Burke,
Caldwell,
And
Catawba
Counties

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DO YOU KNOW WHAT YOUR RIGHTS ARE?

Residents' Rights are guaranteed by the federal 1987 Nursing Home Reform Law. The law requires nursing homes to "*promote and protect the rights of each resident*" and places a strong emphasis on individual dignity and self-determination. Nursing homes must meet federal residents' rights requirements if they participate in Medicare or Medicaid. North Carolina has residents' rights in state law or regulation for nursing homes, licensed assisted living, adult care homes, and family care homes. A person living in a long-term care facility maintains the same rights as an individual in the larger community.

Residents' Rights Guarantee Quality of Life

The 1987 Nursing Home Reform Law requires each nursing home to care for its residents in a manner that promotes and enhances the quality of life of each resident, ensuring ***dignity, choice, and self-determination***.

All nursing homes are required "to provide services and activities to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident in accordance with a written plan of care that...is initially prepared, with participation, to the extent practicable, of the resident, the residents family or legal representative." ***This means a resident should not decline in health or well-being as a result of the way a nursing facility provides care.***

Every North Carolina resident living in a long term care facility has the following rights:

The Right to be Fully Informed of

- Available services and the charges for each service
- Facility rules and regulations, including a written copy of resident rights
- Address and telephone number of the State Ombudsman and state survey agency
- State survey reports and the nursing home's plan of correction
- Advance plans of a change in rooms or roommates
- Assistance if a sensory impairment exists
- Residents have a right to receive information in a language they understand (Spanish, Braille, etc.)

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Right to Complain

- Present grievances to staff or any other person without fear of reprisal and with prompt efforts by the facility to resolve those grievances
- To complain to the ombudsman program
- To file a complaint with the state survey and certification agency

Right to Participate in One's Own Care

- Receive adequate and appropriate care
- Be informed of all changes in medical condition
- Participate in their own assessment, care planning, treatment, and discharge
- Refuse medication and treatment
- Refuse chemical and physical restraints
- Review one's medical record
- Be free from charge for services covered by Medicaid or Medicare

Right to Privacy and Confidentiality

- Private and unrestricted communication with any person of their choice
- During treatment and care of one's personal needs
- Regarding medical, personal, or financial affairs

Rights During Transfers and Discharges

- Remain in the facility unless a transfer or discharge:
 - (a) is necessary to meet the resident's welfare;
 - (b) is appropriate because the resident's health has improved and she/he no longer requires the current level of care;
 - (c) is needed to protect the health and safety of other residents or staff;
 - (d) is required because the resident has failed, after reasonable notice, to pay the facility charge for an item or service provided at the resident's request
- Receive thirty-day notice of transfer or discharge which includes the reason, effective date, location to which the resident is transferred or discharged, the right to appeal, and the name, address, and telephone number of the state long-term care ombudsman
- Safe transfer or discharge through sufficient preparation by the facility

Right to Dignity, Respect, and Freedom

- To be treated with consideration, respect, and dignity
- To be free from mental and physical abuse, corporal punishment, involuntary seclusion, and physical and chemical restraints
- To self-determination
- Security of possessions

Right to Visits

- By a resident's personal physician and representatives from the state survey agency and ombudsman programs
- By relatives, friends, and others of the residents' choosing
- By organizations or individuals providing health, social, legal, or other services
- Residents have the right to refuse visitors

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Right to Make Independent Choices

- Make personal decisions, such as what to wear and how to spend free time
- Reasonable accommodation of one's needs and preferences
- Choose a physician
- Participate in community activities, both inside and outside the facility
- Organize and participate in a Resident Council
- Manage one's own financial affairs

Where do you go for help if you're concerned a facility is not guaranteeing the rights of residents?

Contact your local Ombudsman 828-485-4213

INSTITUTIONAL ABUSE OR NEGLECT

- Failure to adequately document residents' care and condition
- Failure to implement physicians' orders
- Failure to notify a physician if there are changes in a resident's condition
- Alleged abuse is not reported to proper authorities
- Preventable injuries and health problems
- Patterns of poor care including an excessive rate of falls, malnourishment and pressure ulcers
- Medical staff do not make required rounds
- Foul odors from urine and fecal matter
- Loose handrails or other hazards, mildew, broken windows
- Dilapidated living quarters, infestation of pests (rats, cockroaches)
- Discharge or medical records not appropriately maintained
- Insufficient staff
- Discrepancies between documented care and care that is actually received
- Lack of adequate care plans and resident assessments
- Incorrect body positioning, which leads to limb contractures and skin breakdown
- Ignoring call bells or cries for help
- Not placing residents' funds in interest-bearing accounts when required
- Stealing or embezzling residents' money or personal property

WHAT DOES AN OMBUDSMAN DO?

A Long Term Care Ombudsman is an advocate for residents of nursing homes, adult care homes, and assisted living facilities. Ombudsmen provide information about how to find a facility and what to do to get quality care. They are trained to resolve problems. If you want, the ombudsman can assist you with complaints. However, unless you give the ombudsman permission to share your concerns, these matters are kept confidential.

WHAT CONCERNS DOES AN OMBUDSMAN ADDRESS?

- Violation of residents' rights or dignity
- Physical, verbal or mental abuse, deprivation of services necessary to maintain residents' physical and mental health; or unreasonable confinement
- Poor quality of care, including inadequate personal hygiene and slow response to requests for assistance
- Improper transfer or discharge of resident
- Inappropriate use of chemical or physical restraints
- Any resident concern about quality of care or quality of life

To talk to your local ombudsman, please call Roxanne Powell at 828-485-4213

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